

TRINIDAD AND TOBAGO.

No. 3.—1912.

1st February.

AN ORDINANCE relating to money lending.

[L.S.]

GEORGE R. LE HUNTE,

GOVERNOR.

15th February, 1912.

BE it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Money Lending Ordinance, 1912. Short Title.

2. (1.)—Where proceedings are taken in any Court by any person for the recovery of any money lent before or after the commencement of this Ordinance, or the enforcement of any agreement or security made or taken before or after the commencement of this Ordinance in respect of money lent, and there is evidence which satisfies the Court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fines, bonus, premium, renewals or any other charges, are excessive, and that in either case the transaction is harsh and unconscionable, or is otherwise such that a Court of equity would give relief, the Court may Re-opening of money lending transactions.

re-open the transaction, and take an account between the lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the Court to be fairly due in respect of such principal, interest and charges, as the Court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account by the debtor, may order the creditor to repay it; and may set aside, either wholly or in part, or revise, or alter, any security given or agreement made in respect of money lent, and if the lender has parted with the security may order him to indemnify the borrower or other person sued.

Provided that in any proceedings for the recovery of money lent before the commencement of this Ordinance the Court shall not in the exercise of its powers under this section order the repayment by the creditor of any money paid to him or allowed in account to him before the commencement of this Ordinance, nor set aside, vary or affect any judgment obtained before the commencement of this Ordinance in respect of any such loan, nor deprive the creditor of the benefit of any such payment, allowance or judgment.

(2.) Any Court in which proceedings might be taken for the recovery of money lent by any person shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of money lent, and the Court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Ordinance by the borrower or surety, or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

(3.) On any application relating to the admission or amount of a proof by a person who has lent money in any

bankruptcy proceedings, the Court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

(4.) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money lending.

(5.) Nothing in the foregoing provisions of this section shall affect the rights of any *bond fide* assignee or holder for value without notice.

(6.) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court.

3. Any person who by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, shall be guilty of a misdemeanour, and shall be liable on indictment to imprisonment with or without hard labour, for a term not exceeding two years, or to a fine not exceeding five hundred pounds, or to both.

Inducing borrowing by false statements.

4. The Usury Ordinance, No. 73, is hereby, repealed. Repeal.

Passed in Council this First day of February, in the year of Our Lord one thousand nine hundred and twelve.

HARRY L. KNAGGS,
Clerk of the Council.